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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,292	02/26/2002	Koichi Shirai	123802	9815
25944	7590	03/13/2007		
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			EXAMINER THOMPSON, JAMES A	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 03/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/081,292

Applicant(s)

SHIRAI ET AL.

Examiner

James A. Thompson

Art Unit

2625

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 15 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1, 3 and 5-7.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

James A. Thompson  
Examiner  
Technology Division 2625

## DETAILED ACTION

### *Response to Amendment*

1. While the proposed amendment to claim 3 merely incorporates the limitations of claim 6, and would thus place the application in better form for appeal, the proposed addition of claim 18 would introduce limitations that would require further consideration and further search. Thus, the **proposed amendments to the claims are not entered.**

### *Response to Arguments*

2. Applicant's arguments filed 15 February 2007 have been fully considered but they are not persuasive.

**Regarding page 4, lines 2-16:** As stated above, the proposed amendments have not been entered due to the limitations of proposed new claim 18, which would require further consideration and further search. Furthermore, Examiner does not see how the proposed new claim and how incorporating the subject matter of claim 6 into claim 3 is a response to any issue raised in the final rejection mailed 16 October 2006.

**Regarding page 4, lines 17-22:** Since the proposed amendments to the claims have not been entered, the rejection of claim 1 is still outstanding.

**Regarding page 4, line 23 to page 9, line 11:** *Applicant argues* that Johnson (USPN 5,053,866) in view of *In re Larson* and Stokes (USPN 5,881,209) does not teach four limitations of claim 3, which Applicant denotes as (A), (B), (C) and (D) [page 6, line 17 to page 7, line 4 of Applicant's arguments].

*Examiner replies* firstly that, since the proposed amendments to the claims have not been entered, limitations (A), (B) and (C) are recited in present claim 3 (rejected as obvious over Johnson in view of *In re Larson*) and limitation (D) is the limitation expressly recited in present claim 6.

With respect to limitation (A), Johnson discloses that the controller calculates output-correcting values on the basis of the difference (column 6, lines 30-40 of Johnson) between the color development characteristic information included in the test image data (figure 1 and column 4, lines 8-26 of Johnson) and the reference color development characteristic information (column 6, lines 9-16 of Johnson).

With respect to limitation (B), Johnson discloses that the color development characteristic information is sent through a line from the second input unit to the controller (figure 1 and column 4, lines 8-26 of Johnson).

With respect to limitation (D), Johnson discloses that said controller determines output-correcting values in accordance with printing conditions (column 7, lines 29-34 of Johnson); and Stokes discloses storing a plurality of sets of output-correcting values (column 4, lines 51-58 of Stokes) and selecting an appropriate set of output-correcting values (column 5, lines 1-9 of Stokes) in accordance with printing conditions (column 6, lines 26-34 of Stokes). By combination, Johnson and Stokes teach limitation (D), as set forth in item 6 of said final rejection.

With respect to limitation (C), while Johnson does not disclose expressly that the reference color development characteristic information is sent through the same line as that of the test image data from the input unit to the controller, it would have been obvious to a person of ordinary skill in the art to have the input unit, which in one embodiment taught by Johnson is a scanner, and the second input unit be the same input unit. In other words, the data source (figure 1(12) of Johnson) is a scanner and the scanner (figure 1(20) of Johnson) is the same scanner. The suggestion for doing so would have been that, if a scanner is used as the data source, which is an embodiment taught by Johnson (column 4, lines 4-9 of Johnson), then there is no need to provide a second scanner. The single scanner can be used as both the data source and to read the printed test image. By having the data source scanner and the scanner be the same scanner, the reference color development characteristic information would be sent through the same line as that of the test image data from the input unit to the controller. This is how *In re Larson* is applied, not by combining the lines directly, but by making the data source (which is a scanner in Johnson) and the scanner be the same scanner. Thus, the reference color development characteristic information would be sent through the same line as that of the test image data. The suggestion for such an obvious engineering design choice, while not taken directly from Johnson, is taken from what would have been known to one of ordinary skill in the art at the time of the invention [see MPEP§2143.01]. Specifically, the suggestion for making such an obvious engineering design choice would have been that, if a scanner is used as the data source, which is an embodiment taught by Johnson (column 4, lines 4-9 of Johnson), then there is no need to provide a second scanner. The single scanner can be used as both the data source and to read the printed test image.

**Regarding page 9, lines 12-15:** The presently recited claims have been shown to be either anticipated or rendered obvious by the prior art of record. Accordingly, the final rejection mailed 16 October 2006 is maintained.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



07 March 2007

James A. Thompson  
Examiner  
Technology Division 2625



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